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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,628	01/09/2002	Toshiya Waku	218048US2S	3024
22850	7590	02/18/2009		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER COBANOGILU, DILEK B	
			ART UNIT 3626	PAPER NUMBER
			NOTIFICATION DATE 02/18/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com

oblonpat@oblon.com

jgardner@oblon.com

Office Action Summary

Application No.

10/040,628

Applicant(s)

WAKU ET AL.

Examiner

DILEK B. COBANOGU

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18, 19, 21-30 and 32-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18, 19, 21-30 and 32-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/17/2008 has been entered.
2. Claims 35-36 are newly added. Claims 18-19, 21-30 and 32-36 remain pending in this application.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claim 29 is rejected under 35 U.S.C. 101 for being directed to a non-statutory subject matter because the claimed subject matter failed the machine-or-transformation test. Based on Supreme Court precedent (*Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876)) and recent Federal Circuit decisions, 101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as article or materials) to a different state or thing (*Gottschalk v. Benson*, 409 U.S. 63, 70 (1972)).

5. With respect to Claim 29, the claim language does not include the required tie in the body of the claim or transformation that would provide the application of the test to the claim to reach the conclusion of nonstatutory subject matter. Claims 29 does not recite a particular apparatus in the body of the claim, therefore is rejected under 35 U.S.C. 101, for reciting a non-statutory subject matter.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 18-19, 21-30 and 32-36 are rejected under 35 U.S.C. 102(b) as being unpatentable by Hendrickson et al. (hereinafter Hendrickson) (U.S. Patent No. 5,740,800).

A. Claim 29 recites a method of managing various works which are performed by using a plurality of medical equipments and that relate to at least one patient or at least one medical examination, the method comprising:

- i. generating a stream list which includes a plurality of stream information, the stream information being a flow of work processes performed in one work (Hendrickson; col. 2, lines 11-26, col. 4, lines 26-54);

- ii. selecting a displayed work process (Hendrickson; col. 2, lines 11-26, col. 3, lines 9-19, col. 4, lines 26-54);
 - iii. updating the stream list on the basis of a progress situation of works selected by a select unit and performed in at least one of the plurality of medical equipments (Hendrickson; col. 3, lines 8-38); and
 - iv. displaying the updated stream list so as to share information of the medical examination and execute a centralized progress management of the work processes (Hendrickson; col. 3, lines 10-37, lines 56-67, figures 1 and 2).
- B. Claim 30 recites the method according to claim 29, further comprising: controlling the at least one of the plurality of medical equipments to execute the selected work process (Hendrickson; col. 3, lines 8-37).
- C. Claim 32 recites the method according to claim 29, further comprising transmitting the updated stream list to the plurality of medical equipments (Hendrickson; col. 3, lines 10-37, col. 6, lines 48-61).
- D. Claim 33 recites the method according to claim 29, further comprising modifying the stream list on the basis of an input instruction (Hendrickson; col. 6, lines 48-61).
- E. Claim 34 recites the method according to claim 29, wherein in displaying the stream list, the stream list is displayed in such a manner so as to blind predetermined contents included in the stream list on the basis of a predetermined condition (Hendrickson; col. 5, lines 33-45).

F. Newly added Claim 35 recites the system according to claim 18, wherein the update unit is configured to update the stream list on the basis of a progress situation of the works received from the at least one of the plurality of medical equipments, that execute the selected works, over a network (Hendrickson; col. 3, lines 20-35, lines 49-55).

G. Newly added Claim 36 recites the system according to claim 18, further comprising: a control unit configured to automatically execute the selected work process in a respective one of the plurality of medical equipments, the control unit being connected to the at least one of the plurality of medical equipments over a network (Hendrickson; col. 3, lines 8-37, col. 5, lines 20-31).

H. Claim 24 recites a system comprising a host computer and a plurality of medical equipments and configured to manage various works which are performed by using at least one of the plurality of medical equipments and that relate to at least one patient or at least one medical examination, the host computer comprising:

- i. generate unit configured to generate a stream list which includes a plurality of stream information, the stream information being a flow of work processes performed in one work (Hendrickson; col. 2, lines 11-26, col. 4, lines 26-54);
- ii. a select unit configured to select a displayed work process (Hendrickson; col. 5, lines 32-65, col. 6, lines 20-24);

- iii. an update unit configured to update the stream list on the basis of a progress situation of works selected by the select unit and performed in the at least one of the plurality of medical equipments (Hendrickson; col. 3, lines 8-37, col. 6, lines 31-36, figures 1-2); and
 - iv. a first transmit unit which transmits the updated stream list to the at least one of the plurality of medical equipments via a network (Hendrickson; col. 3, lines 10-37, col. 6, lines 48-61); and
 - v. the plurality of medical equipments comprising: a receive unit configured to receive the updated stream list from the host computer; and a display unit which displays the updated stream list so as to share information of the medical examination and execute a centralized progress management of the work processes (Hendrickson; col. 3, lines 8-37, col. 5, line 66 to col. 6, line 14).
- I. As per claims 18-19, 21-23 and 25-28, they are system claims, which repeat the same limitations of claims 29-30, 32-34, the corresponding method claims, as a collection of elements as opposed to a series of process steps. Since the teachings of Hendrickson disclose the underlying process steps that constitute the methods of claims 29-30, 32-34, it is respectfully submitted that they provide the underlying structural elements that perform the steps as well. As such, the limitations of claims 18-19, 21-23 and 25-28 are rejected for the same reasons given above for claims 29-30, 32-34.

Response to Arguments

8. Applicant's arguments filed 3/24/2008 have been fully considered but they are not persuasive. Applicant's arguments will be addressed below in the order in which they appear.

A. In response to Applicant's argument about Hendrickson does not teach "an update unit configured to update the stream list on the basis of a progress situation of works selected by the select unit and performed in the at least one of the plurality of medical equipments"; Examiner respectfully submits that Hendrickson teaches "By way of example, workstations 10 and 12 can be HP 9000 workstations which operate with a diskless processor and include a high resolution graphic display, keyboard and trackball. ... The system also uses the X/Windows graphic user interface. The database is comprised of an HP-Allbase **relational database** and an object oriented database shell. The system database is shadowed, meaning that it is maintained on both central servers 16 and 18. **Both copies of the database are updated with each transaction.** Data is initially stored at the workstation and is moved to the server to be stored in the medical database" (col. 3, lines 39-55).

B. In response to Applicant's argument about Hendrickson does not teach "a display unit which displays the updated stream list so as to share information of the medical examination and execute a centralized progress management of the work processes"; Examiner respectfully submits that Hendrickson teaches "A medical information system manages clinical pathway order selection. The

medical information system includes a medical database and a user terminal having a display screen. Clinical pathways are defined in the medical database. Each of the clinical pathways is associated with a patient condition and includes a sequence of time intervals and a plurality of clinical pathway order sets (abstract), "The medical information system is designed to provide patient information at the patient's bedside and elsewhere in a hospital. An example of a basic medical information system is shown in FIG. 1. The system uses a client-server architecture wherein a central server supplies data and controls the flow of information to workstations (clients) located at each patient bedside. The client-server architecture eliminates the need for database storage at each workstation". (col. 3, lines 8-37) "And the physician orders display screen is typically accessed from the main menu of the medical information system. The system utilizes pull down menus having items which may be selected with a pointing device, such as a mouse or trackball, as is conventional in Windows-based systems. In a preferred embodiment, the physician orders display screen is selected from a sub-menu of the patient chart selection on the main menu". (col. 3, lines 56-67).

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DILEK B. COBANOGLU whose telephone number is (571)272-8295. The examiner can normally be reached on 8-4:30.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher L. Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. B. C./
Examiner, Art Unit 3626
2/10/2009

/C Luke Gilligan/
Supervisory Patent Examiner, Art Unit 3626